

App. No. 10/711,064
Amendment dated March 30, 2005
Reply to Office action of December 30, 2004

REMARKS

Priority

A supplemental Application Data Sheet was filed on December 20, 2004 in this case. The supplemental ADS references, as a continuation of the present application, Application No. 10/249,614, filed April 23, 2004 and now U.S. Patent No. 6,806,443. Although the December 20, 2004 Application Data Sheet on is not itemized under "Contents Description" in the File History on the PAIR system, this supplemental ADS appears in the Image File Wrapper.

The filing date of the instant application is August 20, 2004; therefore, the specific reference to the parent application was made within in the statutory time limit of four months from the actual filing date. Accordingly, it is believed that Applicants' claim for domestic priority under 35 U.S.C. § 120, and by extension, Applicants' claim for foreign priority under 35 U.S.C. § 119(a)-(b) as well, are valid and proper.

Double Patenting

Claims 1-8 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,806,443. U.S. Patent No. 6,806,443 issued from Application No. 10/249,614, of which, as noted above, the present application is a continuation.

A terminal disclaimer with respect to U.S. Patent No. 6,806,443, and in compliance with 37 C.F.R. § 1.321(c), accompanies this paper. Accordingly, it is believed that the rejection under this section of the Office action is overcome.

Rejections under 35 U.S.C. § 103

Claims 1-8; Katsuda et al. '489

Claims 1 through 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,204,489 to Katsuda et al., given obviousness to one of ordinary skill in the art.

Under the double patenting rejection, addressed above, in the present Office action, it is noted, "Once . . . [A]pplicant [has] received [a] patent for a more specific embodiment, . . . [A]pplicant is not entitled to a patent for [a] generic or broader invention . . . because the more specific invention 'anticipates' the broader invention."

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It is respectfully asserted that because a terminal disclaimer has been filed, applicants have right to pursue a claim for broader invention.

The present claims stand in the form of the claims originally presented in the parent application. Significantly, contrary to the lone rejection made under 35 U.S.C. § 102 of these original claims in the parent case, the present rejection of these claims in the instant application is made under 35 U.S.C. § 103. In both cases, the rejection was made over Katsuda et al. Accordingly, the history of the rejections indicates an acknowledgement that Katsuda et al. disclosure does not anticipate pending claims 1-8.

Applicants respectfully assert that the cited prior art makes absolutely no mention whatsoever of pullback. Further, the Office action asserts that Katsuda et al. shows a configuration with a particular relationship between the peripheral edge of the heating element and the outer peripheral edge of the ceramic body, and then alleges that in light of what Katsuda et al. thus shows, "it would have been obvious to one of ordinary skill in the art to provide the pullback length within the claimed ratio."

It is respectfully submitted that based on the lack of any showing of a discussion of pullback in the cited prior art, the assertion of obviousness in the present rejection of the claims is improperly based on hindsight in light of the present specification. In particular, no evidence of preexisting knowledge in the art that would motivate the skilled practitioner to come up with the present invention has been presented.

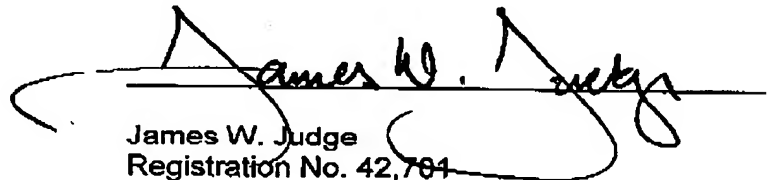
For the foregoing reasons it is believed that claim 1 should be held allowable, as therefore should the remaining claims in the present application, claims 2-7, which depend from claim 1.

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Accordingly, Applicant courteously urges that this application is in condition for allowance. Reconsideration and withdrawal of the rejections is requested. Favorable action by the Examiner at an early date is solicited.

Respectfully submitted,

March 30, 2005

A handwritten signature in black ink, appearing to read "James W. Judge", is written over a horizontal line. The signature is stylized with a large, sweeping initial 'J'.

James W. Judge
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